

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JOHN CHRISTOPHER BAKER,

Plaintiff,

v.

CIVIL ACTION NO. 1:08-0268

INTERNAL REVENUE SERVICE,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to set aside entry of default (Doc. # 14). By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C.A. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on February 13, 2009, in which he recommended that the District Court grant the motion to set aside entry of default, order that the United States be substituted for the Internal Revenue Service as the defendant in this matter, and order that a Summons be issued requiring the United States to respond to plaintiff's Complaint.

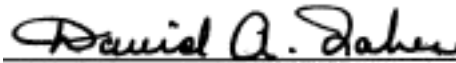
In accordance with the provisions of 28 U.S.C.A. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's Findings and Recommendation within the thirteen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **GRANTS** the motion to set aside entry of default, **ORDERS** that the United States be substituted for the Internal Revenue Service as the defendant in this matter, and **ORDERS** that a Summons be issued requiring the United States to respond to plaintiff's Complaint.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to plaintiff, pro se, and counsel of record.

IT IS SO ORDERED this 3rd day of March, 2009.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge